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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,235	08/13/2001	Stephen F. Gass	SDT 314	8810
27630	7590	12/14/2004	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ALIE, GHASSEM	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/929,235	Applicant(s) GASS ET AL.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 13-15, and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 13-15 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. This Office action is in response to the amendment filed on 12/01/04 where claims 1-5, 13-15, and 30-33 are pending and claims 6-12 and 16-29 have been canceled.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982)', *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)', and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 13-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of copending Application No. 10/052,705. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are all drawn towards a table

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saw having a blade, an adjustment mechanism, a brake mechanism, and a brake positioning system used to position the brake in an operable position relative to the blade as the adjustment mechanism adjusts the position of the blade.

4. Claims 1, 13, and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/052,705. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims both refer to a brake positioning system used with a saw blade that is adjusted vertically up and down.

It should be noted that the obviousness-type double patenting rejections, above, stand. However, at the request of the applicant the discussion of the obviousness-type double patenting rejections is postponed until remaining issues with this application and co-pending application No. 10/052,705 are resolved.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 13-15, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tannewitz (1,811,066) in view of Lokey (3,785,230) and in further view of Yoneda (4,117,752). Tannewitz discloses the invention substantially as claimed including a table saw comprising: a frame 1 including a table 2 defining a work surface; a rotatable blade 5 coupled to the frame and extendable up through the work surface; an adjustment

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mechanism 3/19 configured to adjust the position of the blade relative to the table, a brake mechanism configured to engage and stop the blade, and a brake positioning system 8/11 configured to adjust the position of the brake mechanism to maintain the brake mechanism in an operative position relative to the blade as the position of the blade is adjusted. The adjustment mechanism is configured to adjust the vertical and angular positions of the blade relative to the table. The blade is coupled to the frame by a support structure 17 that is selectively positionable relative to the frame, and the brake mechanism is coupled to the support structure. The support structure includes an arbor block adapted to support the brake mechanism and a rotatable arbor 6 that hold the blade. However, Tannewitz does not disclose a detection system configured to detect a physical contact between a person and the blade, and brake mechanism is actuated upon detection of contact between the person and the blade. Lokey teaches the use of a safety system for a rotary saw that senses the capacitance on a circular saw blade 113 and when a certain level is reached; a brake pawl 125 is actuated to engage the cutting teeth of the saw blade to instantaneously stop the saw blade (column 2, lines 32-62). The safety system of Lokey is set up to detect proximity of a person to the blade. It would have been obvious to a person of ordinary skill in the art at the time of invention to provide Tannewitz's braking mechanism with the safety system as taught by Lokey in order to detect the users' hand when its too close to the blade and stop the rotation of the blade and avoid possible injuries to the user. Tannewitz in view of Lokey does not expressly teach that the detection system detects a physical contact between a person and the blade. However, the use of detecting system to detect a physical contact between a person and a blade is well known in the art such as taught by Yoneda. Yoneda teaches a brake 20

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which stops the saw 14 upon the physical contact of an operator with the blade 14. See Figs. 1-5 and col. 3, lines 7-45 in Yoneda. It would have been obvious to one skilled in the art at the time of the invention to provide Tannewitz's braking system, as modified by Lokey, with the safety system as taught by Yoneda in order to detect physical contact between a user and the blade and immediately stop the blade from rotating and avoid injuries to the user.

Regarding claim 5, Tannewitz as modified above teaches everything noted above including an arbor block 3 supported by the frame, a rotatable arbor 6 supported by arbor block 3 and the brake mechanism that is mounted to the arbor block. The arbor block is defined by shaft 3. The arbor block 3 supports the rotatable arbor 6 and the brake mechanism is mounted to the arbor block 3. The arm 11 of the brake mechanism is mounted to the lever 8 which is mounted to the arbor block 3. The arbor block 3 supports the arbor 6 via slide 26 and lug 30 on the saw frame. See Fig. 1-3 in Tannewitz.

Regarding claim 30, Tannewitz as modified above teaches everything noted above including that the blade 5 includes a perimeter and a cutting edge around its perimeter. Tannewitz as modified by Lokey also teaches that the brake mechanism is configured to engage the cutting edge of the blade to stop the blade upon detection of contact between the person and the blade. Lokey teaches a brake mechanism 125 (or a rubber brake block) that is configured to engage the cutting edge of the blade 113 upon the detection of contact between the person and the blade. See Fig. 7 in Lokey. As discussed above, Tannewitz as modified by Lokey and Yoneda also teaches that the brake mechanism can be activated upon the detection of the contact between a person and the blade.

Regarding claim 31, Tannewitz teaches everything noted above that the adjustment means 3,9 is configured to tilt the blade 5 relative to the table 2. See Fig. 1 in Tannewitz.

Regarding to claim 32, Tannewitz teaches everything noted above including an adjustment means for changing the elevation of the blade 5 relative to the table 2.

Regarding claim 33, Tannewitz as modified by Lokey teaches everything noted above including that the brake positioning system 8, 11, as modified by Lokey, is further configured to support the brake mechanism when the brake mechanism the blade 5. See Fig. 1 in Tannewitz and Fig. 7 in Lokey.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-5, 13-15, and 30-33 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

December 8, 2004

  
**BOYER ASHLEY**  
**PRIMARY EXAMINER**